

## Department of Veterans Affairs

## § 3.809

(e) *Definition.* The term *adaptive equipment*, means generally, that equipment which must be part of or added to a conveyance manufactured for sale to the general public to make it safe for use by the claimant and to assist him or her in meeting the applicable standards of licensure of the proper licensing authority.

(1) With regard to automobiles and similar vehicles the term includes a basic automatic transmission as to a claimant who has lost or lost the use of a limb. In addition, the term includes, but is not limited to, power steering, power brakes, power window lifts and power seats. The term also includes air-conditioning equipment when such equipment is necessary to the health and safety of the veteran and to the safety of others, and special equipment necessary to assist the eligible person into or out of the automobile or other conveyance, regardless of whether the automobile or other conveyance is to be operated by the eligible person or is to be operated for such person by another person; and any modification of the interior space of the automobile or other conveyance if needed because of the physical condition of such person in order for such person to enter or operate the vehicle.

(2) With regard to automobiles and similar vehicles the term includes such items of equipment as the Chief Medical Director may, by directive, specify as ordinarily necessary for any of the classes of losses specified in paragraph (b) of this section and for any combination of such losses. Such specifications of equipment may include a limit on the financial assistance to be provided based on judgment and experience.

(3) The term also includes other equipment which the Chief Medical Director or designee may deem necessary in an individual case.

(Authority: 38 U.S.C. 501(a), 1151(c)(2), 3902))

[36 FR 7588, Apr. 22, 1971, as amended at 38 FR 14370, June 1, 1973; 40 FR 37037, Aug. 25, 1975; 43 FR 4423, Feb. 2, 1978; 47 FR 24552, June 7, 1982; 53 FR 46607, Nov. 18, 1988; 66 FR 44528, Aug. 24, 2001; 71 FR 44919, Aug. 8, 2006]

### § 3.809 Specially adapted housing under 38 U.S.C. 2101(a).

A certificate of eligibility for assistance in acquiring specially adapted housing under 38 U.S.C. 2101(a) may be extended to a veteran if the following requirements are met:

(a) *Service.* Active military, naval or air service after April 20, 1898, is required. Benefits are not restricted to veterans with wartime service.

(b) *Disability.* The disability must have been incurred or aggravated as the result of service as indicated in paragraph (a) of this section and the veteran must be entitled to compensation for permanent and total disability due to:

(1) The loss, or loss of use, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, or

(2) Blindness in both eyes, having only light perception, plus the anatomical loss or loss of use of one lower extremity, or

(3) The loss or loss of use of one lower extremity together with residuals of organic disease or injury which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

(4) The loss or loss of use of one lower extremity together with the loss of loss of use of one upper extremity which so affect the functions of balance or propulsion as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair.

(c) *Duplication of benefits.* The assistance referred to in this section will not be available to any veteran more than once.

(d) *“Preclude locomotion.”* This term means the necessity for regular and constant use of a wheelchair, braces, crutches or canes as a normal mode of locomotion although occasional locomotion by other methods may be possible.

(Authority: 38 U.S.C. 2101, 2104)

CROSS REFERENCE: Assistance to certain disabled veterans in acquiring specially

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adapted housing. See §§36.4400 through 36.4410 of this chapter.

[26 FR 1606, Feb. 24, 1961, as amended at 34 FR 9560, June 18, 1969; 43 FR 14018, Apr. 4, 1978; 46 FR 47543, Sept. 29, 1981]

#### § 3.809a Special home adaptation grants under 38 U.S.C. 2101(b).

A certificate of eligibility for assistance in acquiring necessary special home adaptations, or, on or after October 28, 1986, for assistance in acquiring a residence already adapted with necessary special features, under 38 U.S.C. 2101(b) may be issued to a veteran who served after April 20, 1898, if the following requirements are met:

(Authority: 38 U.S.C. 2101(b))

(a) The veteran is not entitled to a certificate of eligibility for assistance in acquiring specially adapted housing under § 3.809 nor had the veteran previously received assistance in acquiring specially adapted housing under 38 U.S.C. 2101(a). A veteran who first establishes entitlement under this section and who later becomes eligible for a certificate of eligibility under § 3.809 may be issued a certificate of eligibility under § 3.809. However, no particular type of adaptation, improvement, or structural alteration may be provided to a veteran more than once.

(b) The veteran is entitled to compensation for permanent and total disability which (1) is due to blindness in both eyes with 5/200 visual acuity or less, or (2) includes the anatomical loss or loss of use of both hands.

(Authority: 38 U.S.C. 2101(b))

(c) The assistance referred to in this section will not be available to any veteran more than once.

(Authority: 38 U.S.C. 2102)

[46 FR 47543, Sept. 29, 1981, as amended at 53 FR 23237, June 21, 1988]

#### § 3.810 Clothing allowance.

(a) Except as provided in paragraph (d) of this section a veteran who has a service-connected disability, or a disability compensable under 38 U.S.C. 1151 as if it were service-connected, is entitled, upon application therefor, to an annual clothing allowance as specified in 38 U.S.C. 1162. The annual cloth-

ing allowance is payable in a lump sum, and the following eligibility criteria must also be satisfied:

(1) A VA examination or hospital or examination report from a facility specified in § 3.326(c) discloses that the veteran wears or uses certain prosthetic or orthopedic appliances which tend to wear or tear clothing (including a wheelchair) because of such disability and such disability is the loss or loss of use of a hand or foot compensable at a rate specified in § 3.350(a), (b), (c), (d), of (f); or

(2) The Chief Medical Director or designee certifies that because of such disability a prosthetic or orthopedic appliance is worn or used which tends to wear or tear the veteran's clothing, or that because of the use of a physician-prescribed medication for a skin condition which is due to the service-connected disability irreparable damage is done to the veteran's outer garments. For the purposes of this paragraph "appliance" includes a wheelchair.

(b) Effective August 1, 1972, the initial lump sum clothing allowance is due and payable for veterans meeting the eligibility requirements of paragraph (a) of this section as of that date. Subsequent annual payments for those meeting the eligibility requirements of paragraphs (a) of this section will become due on the anniversary date thereafter, both as to initial claims and recurring payments under previously established entitlement.

(c)(1) Except as provided in paragraph (c)(2) of this section, the application for clothing allowance must be filed within 1 year of the anniversary date (August 1) for which entitlement is initially established, otherwise, the application will be acceptable only to effect payment of the clothing allowance becoming due on any succeeding anniversary date for which entitlement is established, provided the application is filed within 1 year of such date. The 1-year period for filing application will include the anniversary date and terminate on July 31 of the following year.

(2) Where the initial determination of service connection for the qualifying disability is made subsequent to an anniversary date for which entitlement is